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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/682,522	10/08/2003	Steven Allen Hellmann	18830	2945

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KIMBERLY-CLARK WORLDWIDE, INC.  
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EXAMINER
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DURAND, PAUL R

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/682,522	Applicant(s) HELLMANN ET AL.	
	Examiner Paul Durand	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2005.  
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-17, 19, 20 and 22-28 is/are pending in the application.  
 4a) Of the above claim(s) 4-6 and 14-16 is/are withdrawn from consideration.  
 5) ☒ Claim(s) 26-28 is/are allowed.  
 6) ☒ Claim(s) 1-3, 7, 8, 11-13, 17, 20 and 22-25 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☒ The drawing(s) filed on 07 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 4-6 and 14-16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 8/17/2004.

### ***Claim Objections***

2. The claims are objected to because of the following informalities: the facsimile of the claims in the amendment filed 10/21/2005 is barely legible due to what appears to be a scanning or transmission error. Applicant is requested to submit a more legible set of claims in any future amendment, with a larger type font (preferably 12 pt.).

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3,7,8,11-13,17,20 and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clay (US 6,658,813) in view of Stephen et al (US 5,353,914) in further view of Shirodera (US RE37,405).

In regard to claims 1,2,7,11 and 12, Clay discloses the invention substantially as claimed including a delivery device 104, in the form of a second conveyor, which conveys a plurality of initial type individual articles in the form of complementary containers 14, a first transport device in the form of conveyor 50, which transports a plurality of first type articles in the form of container 20, from an unknown area to a first packing location (no number given, but generally in the location of half full box in Fig.2) and an automated assembly mechanism in the form of packing area 60 and wrap machine 115 which combines and wraps the first plurality of articles with the plurality of initial articles (see Figs. 1-5, C2,L16-29 and C3,L36 – C5,L45). What Clay does not explicitly disclose is the use of an accumulation area, with a metering drum to stage the second articles prior to packaging.

However, Stephen teaches that it is old and well known in the art of transporting articles to provide an accumulation mechanism comprised of supply hopper 13, and a tilted rotating drum in the form of rotating tube 20, with an entry end and an exit end, for the purpose of moving and orienting a first type article in the form of pipe joint 11 prior to being joined with an initial type article in the form of a label (see Fig 2,4 and C3,L21-65). Furthermore, Shirodera teaches that it is old and well known in the art to provide a tilted rotating metering drum 10, which places articles 2 on an outgoing conveyor in the form of feed chute 30, which moves the items to a subsequent operation, the feed drum comprised of a stationary plate in the form of flange 12 for the purpose of preventing articles from falling from the drum (see Figs. 1,3 and C3,L17-62).

Therefore, it would have been obvious to one having ordinary skill in the art at

the time the invention was made to have provided the invention of Clay with the accumulation means as taught by Stephen and the article retention means as taught by Shirodera, for the purpose of accumulating, orientating and supplying articles prior to shipment to a subsequent operation.

In regard to claims 3 and 13, the modified invention of Clay discloses the invention substantially as claimed including an initial type of article in the form of complementary container 14, which is can be comprised of a packaged food container, a first transfer device in the form of conveyor 50, and a package system in the form of co-packing area 60, which combines the articles (see Figs. 1-5, C2,L16-29 and C3,L36 – C5,L45). What Clay does not disclose is the specific use of a packaging machine to pack the first articles. However, the examiner takes Official Notice that it is old and well known in the art of food packaging to provide a machine which packages the food items prior to final packaging for the purpose of reducing damage to product.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the invention of Clay with a packaging machine for both articles prior to combining for the purpose of reducing damage to product.

In regard to claims 8,17 and 20, Clay discloses the invention substantially as claimed except for the use an accumulating mechanism. However, Stephen teaches that it is old and well known in the art of transporting articles to provide and accumulation mechanism comprised of an input device comprised of hopper 13 and alignment device in the form of drum, which aligns the articles along a selected direction

for the purpose orienting a first type article with another article in the form of a label (see Fig 2,4 and C3,L21-65). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the invention of Clay with the accumulation means as taught by Stephen for the purpose of accumulating, orientating and supplying articles prior to shipment to a subsequent operation.

In regard to claims 22-25, Clay discloses the invention substantially as claimed except for the use of lugs to grab the articles in the drum. However, Shirodera further teaches that it is old and well known in the art to provide a stationary plate 52 adjacent and downstream from the drum, lugs in the form of 13 radial plates, arranged at an end of the drum which engages items 2, with an exit ramp positioned at one end of the drum (see Figs. 1 and 2). Furthermore, regarding claim 24, while Shirodera does not specifically disclose the lug size approximate the article size, the examiner takes Official Notice that it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided a lug size approximate the article size for the purpose of ensuring that only one article conveyed on each lug.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the invention of Clay with the lug means as taught by Shirodera for the purpose of conveying an article.

5. Claims 10 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clay, Stephen et al and Shirodera in further view of Schmied (US 2,656,085).

The modified invention of Clay discloses the invention substantially as claimed as applied to claims 1,8,11 and 17 above, except for the use of a slide to move the articles

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from the rotating drum. However, Schmied teaches that it is old and well known in the art to provide an accumulation drum (generally indicated by 10), along with a slide in the form of chute 35 for the purpose of moving and guiding an article from an accumulation area to a subsequent operation (see Figs. 3 and 4).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the modified invention of Clay with the slide means as taught by Schmied for the purpose of moving and guiding an article from an accumulation area to a subsequent operation.

#### ***Allowable Subject Matter***

6. Claims 26-28 are allowed.

#### ***Response to Arguments***

7. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

This action is non-final.

#### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Durand whose telephone number is 571-272-4459. The examiner can normally be reached on 0730-1800, Monday - Thursday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's

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supervisor, Rinaldi I. Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul Durand  
December 22, 2005



Stephen F. Gerrity  
Primary Examiner